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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

BLENDTEC INC., a Utah corporation,

Plaintiff,

vs.

BLENDJET INC., a Delaware corporation,

Defendant.

**BLENDJET’S MOTION FOR LEAVE TO
FILE REPLY IN SUPPORT OF MOTION
TO COMPEL REGARDING RFP NO. 44
AND SUPPLEMENTAL SEARCH
TERMS [DKT 91]**

Civil No. 2:21-cv-00668-TC-DBP

Judge Tena Campbell
Magistrate Judge Dustin B. Pead

Defendant BlendJet Inc. (“BlendJet”) respectfully submits this motion for leave to file a two-page reply, in support of the Motion to Compel Regarding RFP No. 44 and Supplemental Search Terms (Dkt. 91).

Here, a reply is warranted because Blendtec’s Response to BlendJet’s Motion to Compel Regarding RFP No. 44 and Supplemental Search Terms (Dkt. 101) (the “Response”) makes certain representations of facts regarding compliance with its discovery obligations that tend to obscure the issues raised. *See, e.g., Green v. New Mexico*, 420 F.3d 1189, 1196 (10th Cir. 2005) (citing *Doebele v. Sprint/United Mgmt. Co.*, 342 F.3d 1117, 1139 at n.13 (10th Cir. 2003)) (permitting surreply where new evidence or argument presented); *see also Breslin v. Dickinson Twp.*, 2012 WL 715258, at *12–13 (M.D. Pa. Mar. 5, 2012) (granting motion to file surreply that addressed “the misrepresentation of factual matters and the alteration of the provenance of exhibits tendered to the court” in plaintiffs’ reply).

Defendant BlendJet should have an opportunity to respond to Blendtec’s factual assertions.

The proposed Reply in Support of the Motion to Compel Regarding RFP No. 44 and Supplemental Search Terms (Dkt. 91) and a proposed order granting this motion are concurrently filed herewith.

Respectfully submitted this 28th day of April, 2023.

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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of April, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send an electronic notification to counsel of record for all parties, including the following:

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